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IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

John J. Bednarski and Ruth Bednarski,	:	
husband and wife, residents of the	:	
State of Connecticut,	:	
Plaintiffs,	:	C. A. No.:
v.	:	Jury Trial Demanded
E and S Contract Carriers, Inc.,	:	
a corporation of the Commonwealth	:	Non-Arbitration
of Virginia,	:	
Clarence Jones, a resident of the	:	
Commonwealth of Virginia,	:	
I & A Transport, Inc., a Florida	:	
corporation, and	:	
Martin Camacho, a Florida resident,	:	
Defendants.	:	

COMPLAINT

1. Plaintiffs John J. Bednarski and Ruth Bednarski, husband and wife, are residents of the State of Connecticut.

2. Defendant E and S Contract Carriers, Inc., ("E and S"), is a corporation of the Commonwealth of Virginia with a principle place of business located at 2400 Maury Street, Richmond, Virginia, 23224. Defendant E and S's registered agent is R. W. Spight located at 2400 Maury Street, Richmond, Virginia, 23224..

3. Defendant Clarence Jones, upon information and belief, is a Virginia resident with a last known address of Route 3, Box 215-C, Farmville, Virginia, 23901.

4. Defendant I & A Transport, Inc. ("I & A"), is a Florida corporation with a principle place of business located at 6109 Northwest 72nd Avenue, Miami, Florida, 33166. Defendant I & S's registered agent is Ana T. Cordovi located at 6109 Northwest 72nd Avenue., Miami, Florida, 33166.

5. Defendant Martin Camacho, is a Florida resident with a last known address of 35 Northwest 64th Avenue, Miami, Florida, 33126.

6. On or about September 6, 2002, at approximately 8:18 a.m., plaintiff John J. Bednarski was operating his motor vehicle northbound on U. S. Route 301 in Middletown, New Castle County, State of Delaware. The relevant portion of U. S. Route 301 is a two-lane paved roadway with a 35 mph speed limit.

7. At that time and place, Defendant Clarence Jones, operating a tractor trailer owned by defendant E and S, was traveling northbound on U.S. Route 301 immediately behind plaintiff John J. Bednarski's vehicle.

8. At that time and place, Defendant Martin Camacho was operating a tractor trailer owned by I & A in a southbound direction on U. S. Route 301 in Middletown, New Castle County, State of Delaware.

9. At approximately 8:18 a.m. on September 6, 2002, defendant Clarence Jones operated a tractor trailer in a manner causing his vehicle to collide with the rear portion of the vehicle operated by plaintiff John J. Bednarski.

10. While driving northbound in a tractor trailer, defendant Clarence Jones took his eyes off the roadway ahead when he looked downward to pick up food in the cab of his tractor trailer. At that instant, plaintiff John Bednarski had slowed his vehicle to a stop to allow traffic

ahead to clear. Plaintiff Mr. Bednarski's vehicle was fully stopped when collided with from behind by the tractor trailer operated by defendant Clarence Jones.

11. As a result of the rear-end impact on the vehicle of plaintiff John J. Bednarski, Mr. Bednarski's vehicle spun from the northbound lane into the path of defendant Martin Camacho's tractor trailer thereby resulting in a second impact from defendant Camacho's vehicle.

COUNT I
NEGLIGENCE

12. Defendant Clarence Jones operated E and S. Contract Carriers, Inc.'s vehicle in a careless, reckless and negligent manner so as to cause said vehicle to collide with plaintiff Mr. Bednarski's vehicle thereby causing serious injury to Mr. Bednarski.

13. Defendant Clarence Jones was negligent in that he:

- (a) Failed to maintain a proper lookout in violation of 21 Del. C. §4176(b);
- (b) Failed to keep said motor vehicle under control;
- (c) Failed to drive with due regard for the safety of all persons using the highway;
- (d) Operated his motor vehicle in a careless, imprudent or inattentive manner in violation of 21 Del. C. §4176; and,
- (e) Failed to give his full time and attention to the operation of said motor vehicle in violation of 21 Del. C. §4176(a).

14. Defendant Martin Camacho operated defendant I and A Transport Inc.'s vehicle in a careless, reckless and negligent manner so as to cause said vehicle to collide with the vehicle operated by plaintiff John J. Bednarski, thereby causing serious injury to plaintiff Bednarski.

15. As a result of the negligence of the defendants, plaintiff John J. Bednarski has suffered, is suffering and will continue to suffer in the future painful, disabling injuries of the body including serious physical personal injury, cognitive deficit, and emotional and physical pain and suffering.

16. As a further proximate result of defendants' aforesaid negligence, plaintiff John J. Bednarski has suffered the following damages:

- (a) pain and suffering, past and future;
- (b) physical injuries some or all of which may be permanent;
- (c) extensive medical treatment;
- (d) medical expenses and into the future;
- (e) loss of earning capacity past and in to the future.

COUNT II
AGENCY AND NEGLIGENT ENTRUSTMENT

14. Upon information and belief, defendant Clarence Jones was at all relevant times operating a motor vehicle owned by E and S Contract Carriers, Inc. with the authorization and permission of E and S Contract Carriers, Inc., and was at all times an agent and employee working within the scope of his employment with E and S Contract Carriers, Inc.

15. E and S Contract Carriers, Inc. negligently and recklessly entrusted their vehicle to defendant Clarence Jones.

17. Upon information and belief, defendant Martin Camacho was at all times relevant hereto operating a vehicle owned by I and A Transport Inc. with the authorization and

permission of I and A Transport, Inc. Defendant Martin Camacho was at all relevant times an agent and employee working in the scope of his employment with I and A Transport Inc.

18. I and A Transport Inc. negligently and recklessly entrusted their vehicle to defendant Martin Camacho.

19. Under the doctrines of negligent entrustment and *respondeat superior*, defendants E and S Contract Carriers Inc. and I and A Transport Inc. are jointly and severally liable with defendants Clarence Jones and Martin Camacho for any injuries resulting from the defendant drivers' negligence.

20. As a result of the negligence of the defendants, plaintiff John J. Bednarski has suffered, is suffering and will continue to suffer in the future painful, disabling injuries of the body including serious physical personal injury, cognitive deficit, and emotional and physical pain and suffering.

21. As a further proximate result of defendants' aforesaid negligence, plaintiff John J. Bednarski has suffered the following damages:

- (a) pain and suffering, past and future;
- (b) physical injuries some or all of which may be permanent;
- (c) extensive medical treatment;
- (d) medical expenses and into the future;
- (e) loss of earning capacity past and in to the future.

COUNT III
CONSORTIUM

22. As a direct and proximate result of the aforesaid wrongful conduct of the defendants and resulting injuries to her husband, plaintiff Ruth Bednarski has suffered and will

continue to suffer a loss of consortium and society of her husband and other damages to the marital relationship.

WHEREFORE, plaintiffs John J. Bednarski and Ruth Bednarski pray for a judgment against each of the defendants, jointly and severally, for compensatory damages together with the costs of this action and such further relief as the Court deems proper.

ELZUFON AUSTIN REARDON
TARLOV & MONDELL, P.A.

/s/ **MARK L. REARDON**
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